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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/992,110	11/05/2001	Gustavo Palacio	16,422	7471

23556 7590 05/10/2006

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EXAMINER

COLE, ELIZABETH M

ART UNIT PAPER NUMBER

1771

DATE MAILED: 05/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/992,110

Applicant(s)

PALACIO ET AL.

Examiner

Elizabeth M. Cole

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-15 is/are allowed.
- 6) ☒ Claim(s) 16-27 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 16-27 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Milding, WO 96/06222. Milding discloses nonwoven fabrics which comprise recycled fibers. The recycled fibers can have a length of 5-60 mm, (page 2, line 29). The recycled fibers can comprise natural and synthetic fibers. See page 3, lines 18-26. The recycled fibers are reclaimed from waste materials in the form of edge trimmings, start up waste and other unused as well as used textile structures. See page 3, lines 11-15. The waste textiles are cut up and subjected to shredding by spiked rollers to form the reclaimed fibers. See page 3, lines 19-21. The reclaimed fibers can then be combined with new fibers and formed into nonwoven webs by wet forming, foam forming, air laying or dry laying the fibers to form a web which can then be hydroentangled. See page 2, line 33-page 3, line 3. Milding differs from the claimed invention in that Milding does not disclose that the fibers have at least one irregular distortion generated by hydraulic fracture of the thread element to

separate it from a bonded fibrous material while the bonded fibrous material is suspended in a liquid and does not describe the form of the distortions, (claim 21) or the surface area of the distorted fibers relative to the surface area of the fiber prior to its being reclaimed. However, Milding does describe a process for mechanically separating fibers having the claimed composition and length from textile waste by first cutting the material and then subjecting it to a spiked roller. Therefore, it is reasonable to presume that the fibers resulting from this treatment would have at least one distortion such a bend, a flattened segment or an expanded segment, due to the action of the spiked roller in separating the fibers. Due to the presence of the distortion the fiber would have a surface area which was greater than that of the fiber before it was separated. Support for these presumptions is found in the fact that Milding teaches employing the same size and types of fibers and subjecting them to mechanical stresses such as shredding with a spiked roller.

4. It is noted that the two obviousness-type double patenting rejections set forth previously were affirmed by the Board.

5. Claims 1-15 are allowed in view of the Board Decision dated 9/28/05.

6. Applicant's arguments filed 3/13/06 have been fully considered but they are not persuasive. Applicant argues that Milding does not that the mechanically freed fibers are recycled by suspending the discrete pieces of bonded fibrous materials in a liquid and applying mechanic work to the liquid suspension to generate hydraulic pressure and mechanical shear stress conditions sufficient to hydraulically fragment the bonded fibrous materials into fibers and fiber-like components as taught by claim 1 from which

claim 16 depends. However, claim 16 is drawn to a product. As set forth above, Milding teaches subjecting the textile to waste to a spiked roller and it is reasonable to presume that fibers which have been subjected to treatment with a spiked roller would have a distortion such as a bend, flattened segment or expanded segment. The fact that Milding does not teach the particular process does not mean that the product claimed is different from the Milding product, even though the process is different.

7. Applicant argues that the claimed fibers have unique distortions due to the hydraulic fracturing and point out that the specification compares the claimed fibers to conventional staple fibers. However, the fibers in Milding are not conventional staple fibers but instead are reclaimed fibrous waste which is subjected to a spiked roller.

8. Applicant argues that the claimed process is very stringent and aggressive and if it were used on the fibers of Milding the fibers would very likely melt. However, the rejection does not state that it would have been obvious to have used the claimed process to make the recycled product of Milding, but instead states that it appears that the fibers of Milding would also have a distortion such as a bend, flattened segment or expanded segment, even though the process by which this distortion is formed is different. Applicant has not shown that the distortions in the claimed fibers are different from the distortions in the Milding fibers.

9. Applicant's comments regarding the double patenting rejections and that terminal disclaimers will be supplied at allowance are noted.

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth M. Cole whose telephone number is (571) 272-1475. The examiner may be reached between 6:30 AM and 6:00 PM Monday through Wednesday, and 6:30 AM and 2 PM on Thursday.

Mr. Terrel Morris, the examiner's supervisor, may be reached at (571) 272-1478.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

The fax number for all official faxes is (571) 273-8300.


Elizabeth M. Cole
Primary Examiner
Art Unit 1771

e.m.c